

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK-----X  
KEVIN YAN LUIS,

Plaintiff,

-against-

ARCONA, INC.,

Defendant.  
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23-CV-2951 (VSB)

**ORDER**VERNON S. BRODERICK, United States District Judge:


On April 7, 2023, Plaintiff filed this action against Defendant. (Doc. 1.) Plaintiff obtained a summons on April 10, 2023. (Doc. 4.) On May 14, 2023, an attorney filed a notice of appearance on behalf of Defendant. (Doc. 5.) However, to date, Plaintiff has not filed an affidavit of service. Accordingly, it is hereby:

ORDERED that, no later than July 25, 2023, Plaintiff shall file either a) a proof of service on the docket if Plaintiff has served Defendant, or b) a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m) for failure to timely serve Defendant. “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick*

*Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff'd*, 173 F.3d 844 (2d Cir.1999)). Plaintiff is warned that if Defendant has not been served, failure to submit a letter and to demonstrate good cause for failure to serve Defendant within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: July 12, 2023  
New York, New York

  
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VERNON S. BRODERICK  
United States District Judge